

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ENTERGY POWER GENERATION CORPORATION, HAWKEYE GENERATING, L.L.C.	DOCKET NO. GCU-01-2
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**ORDER GRANTING INTERVENTION, DENYING MOTION TO APPEAR,  
AND REVISING PROCEDURAL SCHEDULE**

(Issued March 19, 2002)

On March 11, 2002, Scott Moore and Dixie Moore (Moore) of 1246 Adair Union Drive, Creston, Iowa 50801, filed with the Utilities Board (Board) a petition to intervene in Docket No. GCU-01-2. This docket will examine the application filed by Hawkeye Generating, L.L.C. (Hawkeye), for an electric generating facility certificate to construct and operate a natural gas-fired combined cycle generator (CCG) near Orient, Iowa.

In support of their petition to intervene, the Moores state that they own property and reside immediately across the road from the proposed power plant site, located approximately 2.5 miles south of Orient, Iowa. The Moores also state that they believe construction of the power plant in its proposed location will result in a destruction of their peaceful use and enjoyment of their residence and property and ultimately a taking of their property without proper consideration or compensation. In

addition, the Moores state that construction of Hawkeye's proposed facility will result in a marked destruction of the valuation of their property.

The Moores request an opportunity to intervene and to submit direct testimony and other documentary evidence to support their assertions. The Moores also ask to be represented by out-of-state counsel at the hearing before the Board in this matter. The Moores also request an injunction on any construction and operation of Hawkeye's facility.

On March 14, 2002, Hawkeye filed an objection to the Moores' petition to intervene. In support of its objection, Hawkeye states that the Moores' petition was untimely, that the Moores did not provide Hawkeye with adequate service, and that the Moores' claims relate purely to personal economic and tort issues beyond the Board's jurisdiction.

The Moores' petition to intervene will be granted pursuant to 199 IAC 24.8(2). As property owners immediately across the road from Hawkeye's proposed facility, the Moores have demonstrated a direct and unique interest in these proceedings that should be represented. The Board notes that some of the Moores' statements contained in their petition may be beyond the scope of these proceedings. Therefore, the Board states that the Moores' intervention shall not change or enlarge the issues specified in Iowa Code § 476A.6.

The Board will also allow the Moores to provide direct testimony and evidence in support of their petition on or before March 25, 2002. Hawkeye shall file rebuttal

testimony or evidence to the Moores' submission on or before April 1, 2002. All other procedural provisions of the Board's original scheduling order remain the same.

The Board has not received the appropriate documentation pursuant to 199 IAC 7.2(7)"e," so as to allow Illinois attorney Jerold Barringer to appear at the hearing in this matter on the Moores' behalf. Therefore, the Moores' request for representation by an out-of-state attorney is denied at this time.

Since construction or operation of the proposed Hawkeye facility cannot take place until it obtains a certificate, there is no need for the Board to address the Moores' request for an injunction of the facilities' construction at this time.

**IT IS THEREFORE ORDERED:**

1. The petition to intervene filed by Scott Moore and Dixie Moore, 1246 Adair Union Drive, Creston, Iowa, 50801, on March 11, 2002, is granted as described in this order. Scott Moore and Dixie Moore shall be allowed unrestricted rights to participate in these proceedings.
2. The procedural schedule in this matter is revised as follows:
  - a. Scott Moore and Dixie Moore shall file direct testimony and/or evidence on or before March 25, 2002.
  - b. Hawkeye Generation, L.L.C., shall file rebuttal testimony and/or evidence to the Moores' submission on or before April 1, 2002.

All other procedural provisions of the Board's original scheduling order remain the same.

3. The request for an out-of-state attorney to appear on behalf of Scott Moore and Dixie Moore in these proceedings is denied pending the filing of proper documentation pursuant to 199 IAC 7.2(7)"e."

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 19<sup>th</sup> day of March, 2002.